

Introduced by Senator Figueroa

February 20, 2003

An act to amend Section 7028 of the Business and Professions Code relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

SB 443, as introduced, Figueroa. Contracting without a license: repeat offenders.

Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensure and regulation of contractors. Existing law makes it a misdemeanor for any person to engage in the business or act in the capacity of a contractor without having a license. Existing law requires the court, in the instance of a repeat offender, to impose a specified fine or to imprison the repeat offender in the county jail for not less than 10 days nor more than 6 months, or both.

This bill would instead require, except in unusual cases, that a repeat offender be confined in the county jail for not less than 90 days. The bill would require the court to state on the record its reasons if the court imposed a jail sentence of less than 90 days or only a fine.

Because the bill would change the existing misdemeanor penalty concerning repeat offender violations, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7028 of the Business and Professions
2 Code is amended to read:
3 7028. (a) It is a misdemeanor for any person to engage in the
4 business or act in the capacity of a contractor within this state
5 without having a license therefor, unless ~~such~~*the* person is
6 particularly exempted from the provisions of this chapter.
7 (b) If ~~such~~*the* a person has been previously convicted of the
8 offense described in this section, the court shall impose a fine of
9 20 percent of the price of the contract under which the unlicensed
10 person performed contracting work, or four thousand five hundred
11 dollars (\$4,500), whichever is greater, ~~or imprisonment in the~~
12 ~~county jail for not less than 10 days nor more than six months, or~~
13 ~~both~~ *and the person shall be confined in a county jail for not less*
14 *than 90 days, except in an unusual case where the interests of*
15 *justice would be served by imposition of a lesser sentence or a fine.*
16 *If the court imposes only a fine or a jail sentence of less than 90*
17 *days for second or subsequent convictions under this section, the*
18 *court shall state the reasons for its sentencing choice on the record.*
19 (c) In the event the person performing the contracting work has
20 agreed to furnish materials and labor on an hourly basis, “the price
21 of the contract” for the purposes of this section means the
22 aggregate sum of the cost of materials and labor furnished and the
23 cost of completing the work to be performed.
24 (d) Notwithstanding any other provision of law to the contrary,
25 an indictment for any violation of this section by the unlicensed
26 contractor shall be found or an information or complaint filed
27 within four years from the date of the contract proposal, contract,
28 completion, or abandonment of the work, whichever occurs last.
29 SEC. 2. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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